



Order 96-1-7

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation
on the 11th day of January, 1996

Served: January 22, 1996

Essential air service at

**ANNISTON, ALABAMA
TUSCALOOSA, ALABAMA**

**Docket OST-95-889
Docket 50381**

under 49 U.S.C. 41731 *et seq.*

**ORDER PROHIBITING SUSPENSION OF SERVICE
AND REQUESTING PROPOSALS FOR REPLACEMENT SERVICE**

Background

On November 27, 1995, Gulfstream International Airlines, Inc., filed a 90-day notice of intent to suspend its subsidized service at Anniston, Alabama, as of February 27, 1996. Gulfstream was initially selected to operate three nonstop round trips each weekday and four each weekend between Anniston and Atlanta with 15-seat Beech C-99 aircraft at an annual subsidy of \$796,737 for the two-year period ending October 31, 1996.¹ Because of Congressional reductions in funding for the essential air service program, however, the Department recently reduced the level of subsidized service at Anniston to ten round trips a week at an annual subsidy of \$494,816 for the remainder of the rate term.² Gulfstream is the only carrier providing scheduled service at the community.

Decision

Gulfstream's suspension of service would leave Anniston without any scheduled air service. In this situation, 49 U.S.C. 41734 requires that we prohibit Gulfstream from suspending service at the community for 30 days beyond the end of the 90-day notice period, through March 28, 1996. In doing so, we will require Gulfstream to maintain ten round trips a week between Anniston and Atlanta.

¹ See Order 94-10-17, October 14, 1994, and Appendix A for a map.

² See Order 95-11-28, November 17, 1995.

Carrier Replacement Proposals

We will also seek proposals, with or without subsidy requests, from carriers interested in providing replacement service at Anniston as well as nearby Tuscaloosa, Alabama, where Flagship Airlines, Inc., d/b/a American Eagle, filed a similar 90-day notice of intent to terminate its Tuscaloosa-Nashville service last June.³ As a general matter, we are prepared to consider proposals that would provide either or both communities with ten round trips each week to Atlanta or any other suitable hub with 15- to 19-seat aircraft.

Service and Traffic Histories

Gulfstream has been operating subsidized Anniston-Atlanta service since November 1994, when it replaced GP Express Airlines, Inc. Atlantic Southeast Airlines, Inc., had operated unsubsidized service in the market until April 1991, but the service in the market has been continuously subsidized since then. Gulf Flite Center, Inc., d/b/a Skybus Express, replaced ASA, and GP Express replaced Skybus in June 1992. During the year ended June 30, 1995, the most recent 12-month period for which data are available, Anniston averaged 7.7 enplanements per service day.⁴

American Eagle has been providing service at Tuscaloosa for many years. During its tenure, Tuscaloosa-Nashville traffic peaked at 39.3 enplanements per service day in 1993. Traffic in the market has declined slightly since then. During the year ended June 30, 1995, Tuscaloosa-Nashville traffic averaged 30.7 enplanements per service day.

Until 1994, Tuscaloosa also received service to Atlanta. Until 1992, ASA operated unsubsidized Tuscaloosa-Atlanta service. During the late 1980s, ASA's traffic to Atlanta rivaled or exceeded American Eagle's to Nashville; in 1989, for example, Tuscaloosa averaged 31.4 enplanements per service day to Atlanta and 22.3 to Nashville. Afterwards, however, ASA's traffic declined. In July 1990, ASA filed notice to suspend service, and the Department subsidized ASA's hold-in service until June 1992, when ASA was replaced by GP Express. During its two years in the market, GP Express averaged about ten enplanements per service day. Primarily because of those poor traffic results, the Department decided to discontinue subsidy for GP Express's service to Atlanta, to rely on American Eagle's remaining service to Nashville to meet the community's essential air service requirements, and to allow GP Express to terminate service as of July 1, 1994.

Procedures for Filing Replacement Proposals

For interested carriers unfamiliar with our procedures and recommended form for supplying the necessary information, we have prepared two explanatory documents that we will make available upon request. The first describes the process for handling carrier replacement cases under 49 U.S.C. 41734(f), and discusses in detail the process of requesting proposals, conducting reviews of applicants, and selecting a replacement carrier. The second is an evidence request containing an explanatory statement, a copy of Part 204 of our regulations (14 CFR 204), and schedules setting forth our recommended form for submitting data required for calculating compensation and determining the financial and operational ability of applicants to provide reliable essential air service. (Section 204.4 describes the fitness information required of all applicants for authority to provide essential air service.) Applicant carriers that have already submitted this information in another case need only resubmit it if a substantial change has occurred. However, if there are

³ See Order 95-7-50, July 31, 1995.

⁴ See Appendix B for historical traffic data. Enplanements represent one-half of total origin-and-destination traffic, and a service day is a weekday or weekend.

more recent data or if there have been any changes to the information on file, carriers should provide updates of those information elements. Interested carriers that need to obtain copies of these documents may contact the Office of Aviation Analysis at (202) 366-1053.

Other Carrier Requirements

The Department is responsible for implementing various Federal statutes governing lobbying activities, drug-free workplaces, and nondiscrimination.⁵ Consequently, all carriers receiving Federal subsidy to support essential air service must certify that they are in compliance with Department regulations regarding drug-free workplaces and nondiscrimination, and those carriers whose subsidies exceed \$100,000 over the life of the rate term must also certify that they are in compliance with the regulations governing lobbying activities. All carriers that plan to submit proposals involving subsidy should submit the required certifications along with their proposals. Interested carriers requiring more detailed information regarding these requirements as well as copies of the certifications should contact the Office of Aviation Analysis at (202) 366-1053. The Department is prohibited from paying subsidy to carriers that do not submit these documents.

Community and State Comments

The communities and state are welcome to submit comments on the proposals at any time. Early in the proceeding, comments on the proposals' strengths and weaknesses would be particularly helpful, and the civic parties may also express a preference for a particular carrier, if they choose. In any event, after conducting rate conferences with all applicants, we will provide a summary of the conference results to the civic parties and ask them to file their final comments.⁶

This order is issued under authority delegated in 49 CFR 1.56(i).

ACCORDINGLY,

1. We prohibit Gulfstream International Airlines, Inc., from suspending service at Anniston, Alabama, at the end of its 90-day notice period, and require it to maintain service at the community, as set forth in Appendix C, for a 30-day period through March 28, 1996, or until a carrier capable of providing reliable essential air service actually begins service, whichever occurs first;⁷

2. We direct Gulfstream International Airlines, Inc., to retain all books, records, and other source and summary documentation to support claims for payment, and to preserve and maintain such documentation in a manner that readily permits its audit and examination by representatives of the Department. Such documentation shall be retained for seven years or until the Department

⁵ The regulations applicable to each of these three areas are (1) 49 CFR Part 20, New Restrictions on Lobbying, implementing 31 U.S.C. 1352, entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions"; (2) 49 CFR Part 29, Subpart F, Drug-Free Workplace Requirements (Grants), implementing the Drug-Free Workplace Act of 1988; and (3) 49 CFR Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act of 1964; 49 CFR Part 27, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance; and 14 CFR Part 382, Nondiscrimination on the Basis of Handicap in Air Travel.

⁶ In cases where a carrier proposes to provide essential air service without subsidy and we determine that service can be reliably provided without such compensation, we do not normally hold rate conferences. Instead, we allow the carrier to institute the service as proposed.

⁷ In accordance with 49 U.S.C. 41734(c), we will extend Gulfstream's service obligation for successive 30-day periods as necessary until replacement service actually begins.

indicates that the records may be destroyed. Copies of flight logs for aircraft sold or disposed of must be retained. The carrier may forfeit its compensation for any claim that is not supported under the terms of this order;

3. We request that carriers interested in providing essential air service at Anniston or Tuscaloosa, Alabama, submit their proposals, with subsidy requests if necessary, within 20 days after the date of service of this order. Proposals should include all the data required by section 204.4 of the Department's Regulations (14 CFR 204.4). An original and five copies of the proposal should be sent to the EAS & Domestic Analysis Division, X-53, Office of Aviation Analysis, Room 6401, Department of Transportation, 400 7th Street, S.W., Washington, DC 20590, with the title, "Proposal to Provide Essential Air Service at Anniston and/or Tuscaloosa, Alabama, Dockets OST-95-889 and/or 50381";⁸ and

4. We will serve a copy of this order on the Mayors and airport managers of Anniston and Tuscaloosa, Alabama, the Governor of Alabama, the Alabama Department of Transportation, Gulfstream International Airlines, Inc., Flagship Airlines, Inc., d/b/a American Eagle, and the persons listed in Appendix D.

By:

MARK L. GERCHICK
Acting Assistant Secretary for Aviation
and International Affairs

(SEAL)

⁸ After the proposals have been docketed, Department staff will contact each applicant and direct it to serve a copy of its proposal on the civic officials of the community, the state, and the other applicants. All applicants must then file a certificate of service with the Department's Documentary Services Division.